

I do not know what the situation would be with respect to the new order. It may very well be that the same type of situation would exist for the district court. It seems to me that what you do here is to build into the jury system cases that may have been on the magistrate's court level.

We did not take that into consideration. We wanted to preserve the same privileges for the accused which already existed. I do not believe the four-tier system will interfere with that at all.

THE CHAIRMAN: I think the record should be clear that Committee Recommendation JB-1 is not intended to be modified by any way by section 5(A) of R&P-1.

Under JB-1 the legislature would have the power to authorize juries in the district court, but without this amendment, the jury would have to be a jury of twelve. With this amendment, it could be a jury of six.

Delegate Johnson.

DELEGATE JOHNSON: Excuse me, Mr. Chairman. I have a very brief question to ask of Delegate Henderson with respect to this amendment.

THE CHAIRMAN: Delegate Henderson, do you yield to a question?

DELEGATE HENDERSON: I yield.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: Delegate Henderson, I read your amendment as saying it would not interfere with the right of the accused to elect to be tried by a jury of 12, if that is what he chose.

In other words, I want to make it perfectly clear that the intent of this amendment is that the General Assembly may set up a jury of six in the district court. However, the accused would have the right to elect not to be tried by that jury of six in the district court and could be tried by a jury of twelve, I would assume, then, in the superior court under 5(A).

Could that be done?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: That would depend upon the action of the legislature. As I said several times before, the legislature might in its wisdom decide to confine it to a six-man jury in the district court rather than a trial in a higher court.

THE CHAIRMAN: Do you have a further question?

DELEGATE JOHNSON: Would that not then conflict with section 5(A)?

THE CHAIRMAN: This amendment is part of 5(A).

DELEGATE JOHNSON: Would that sentence not conflict with what was mentioned prior to that wherein it says that the accused shall have the right, as I understand it, or as I read it, to be tried by an impartial jury of twelve and the amendment really indicates a permissive type action that the General Assembly may set up, I would assume, for the sake of convenience and for the sake of a speedy trial?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: So far as my intention is concerned, the intention was not to restrict the legislature. The General Assembly can provide for the ousting of jurisdiction by the election of a jury trial or it might not.

These two would certainly have to be read together and it is my view that the six-man jury in the district court would satisfy the requirements of a jury, an impartial jury.

THE CHAIRMAN: Are you ready for the question?

*(Call for the question.)*

The Clerk will ring the quorum bell.

Delegate Dulany.

DELEGATE DULANY: Mr. Chairman, I just want to make one brief statement. I am amazed at the distrust of the legislature expressed while arguing this question. Actually we have a legislature that can give a death penalty to a pickpocket or give a two-year sentence for murder.

The State's Attorney from Baltimore City has stated that four times as many people are requesting jury trials than did four years ago. This is a 400 percent increase. If we are talking about an increased cost to taxpayers, we had better think about a six-man jury in a lower court rather than a twelve-man jury in every single case.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: While we think about the cost to the taxpayers, we ought to think about some traditions which are called sacred. There are some traditions which are sacred.

This amendment intends to accomplish an idea which was rejected by this Committee. Nowhere in the judiciary article is there a limit on the jurisdiction which the General Assembly may infer upon the court.